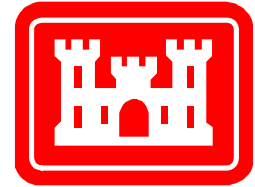

Policy Update



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THE ARMY CIVIL WORKS LEGISLATIVE PROGRAM FOR 1998 – THE WATER RESOURCES DEVELOPMENT ACT OF 1998

The Army Civil Works Legislative Program for 1998 – The Water Resources Development Act of 1998 (WRDA 98) – was forwarded by the Assistant Secretary of the Army (Civil Works) (ASA(CW)) to the Congress on April 22, 1998. Below is a summary of the Army's proposals for WRDA 98 as approved by OMB. It includes project authorizations. It also includes legislative provisions that will facilitate the administration of the Department of the Army Civil Works Program. Bill and report language that was submitted to the Congress by the ASA(CW) will be available after April 24 on the Directorate of Civil Works Policy Division Legislative Information page (<http://www.usace.army.mil/inet/functions/cw/cecwa/leginfo.htm>).

PROJECT AUTHORIZATIONS

Included in the Army Civil Works legislative program are all projects recommended for authorization that have been reviewed and approved by the Administration and a conditional authorization for Grand Forks, North Dakota, and East Grand Forks, Minnesota. The projects included are listed below:

- American River, Sacramento, California. The flood damage

reduction project described as the Folsom Stepped Release Plan in the U.S. Army Corps of Engineers Supplemental Information Report for the American River Watershed Project, California, dated March 1996, at a total cost of \$464,600,000, with an estimated Federal cost of \$302,000,000 and an estimated non-Federal cost of \$162,600,000.

- Guanajibo River, Puerto Rico. The project for flood damage reduction, Guanajibo River, Puerto Rico: Report of the Chief of Engineers, dated February 27, 1996, at a total cost of \$27,441,000, with an estimated Federal cost of \$17,837,000 and an estimated non-Federal cost of \$9,604,000.
- Rio Nigua at Salinas, Puerto Rico. The project for flood damage reduction, Rio Nigua at Salinas, Puerto Rico: Report of the Chief of Engineers, dated April 15, 1997, at a total cost \$13,565,000, with an estimated Federal cost of \$7,079,000 and an estimated non-Federal cost of \$6,486,000.
- Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed. The project for flood damage reduction and recreation, Amite River and Tributaries, Louisiana, East Baton Rouge Parish Watershed: Report of the Chief of Engineers, dated December 23, 1996, at a total cost of \$110,045,000, with an estimated Federal cost of \$71,343,000 and an estimated non-Federal cost of \$38,702,000.
- Grand Forks, North Dakota, and East Grand Forks, Minnesota. The project for flood damage reduction and recreation, Grand Forks, North Dakota, and East Grand Forks, Minnesota, consisting of setback levees and floodwalls, subject to the issuance of a report by

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the Chief of Engineers and approval of that report by the Secretary of the Army with a total cost of \$281,754,000, with an estimated Federal cost of \$140,877,000 and an estimated non-Federal cost of \$140,877,000.

In addition to these projects, the authorizing committees also asked for a listing of "Candidate Projects for

Authorization." This list includes projects that will have a final Chief of Engineers Report expected to be signed by July 1 of the authorization year. It is put together by the HQ Planning Division of the Directorate of Civil Works. The following is the list that was provided to the committees for WRDA 98.

***CANDIDATE PROJECTS FOR AUTHORIZATION
(COE Report expected by July 1, 1998)
Costs at October 1997 price levels***

AUTHORIZATIONS

<u>DIST</u>	<u>PROJECT</u>	<u>PROJECT PURPOSE</u>	<u>DE NOTICE</u>	<u>CHIEF'S REPORT</u>	<u>TOTAL COST \$</u>
LRL	BEARGRASS CREEK, LOUISVILLE, KY	FDR	09/12/97	04/ /98	10,600,000
MVP	CROOKSTON, MN	FDR	08/25/97	03/ /98	8,720,000
NAP	DELAWARE BAY COASTLINE (ROOSEVELT INLET/LEWES), DE (for information only)	SP/NMit	06/97	04/ /98	3,326,000*
NAP	NEW JERSEY SHORE PROTECTION STUDY/TOWNSENDS INLET TO CAP MAY INLET, NJ (for information only)	SP/ENV	03/97	04/ /98	55,203,000*
NAP	DELAWARE BAY COASTLINE (BROADKILL), DE (for information only)	SP	10/96	04/ /98	8,871,000*
NAP	DELAWARE BAY COASTLINE (PORT MAHON), DE	ENV	09/97	05/ /98	7,563,000*
NAB	BALTIMORE HARBOR ANCHORAGES & CHANNELS, MD	NAV-DD	04/30/97	04/ /98	27,700,000
SAJ	TAMPA HARBOR, BIG BEND, FL	NAV-DD	09/30/96	04/ /98	11,348,000
SAS	BRUNSWICK HARBOR DEEPENING, GA	NAV-DD	03/28/98		49,782,000
SAJ	RIO GRANDE de MANATI, PR	FDR	03/31/98		13,364,000
SPL	TUCSON DRAINAGE AREA (TUCSON ARROYO), AZ	FDR/ENV/REC	08/29/97	04/ /98	29,000,000
<u>DIST</u>	<u>PROJECT</u>	<u>PROJECT PURPOSE</u>	<u>DE NOTICE</u>	<u>CHIEF'S REPORT</u>	<u>TOTAL COST \$</u>

* First cost only; project includes future work over 50 years.

"Scheduled" – listed in bold type.

Project Purposes: FDR = Flood Damage Reduction; NAV-DD = Navigation, Deep Draft; ENV = Ecosystem Restoration; HYD = Hydropower; SP = Shore Protection; REC = Recreation; NMit = Navigation Mitigation (section 111); WS = Water Supply

SPL	RIO SALADO, SALT RIVER, CA	ENV/REC	04/14/98	92,080,000
SPL	HANSEN DAM, CA	WS	05/ /98	2,070,000
SPK	SOUTH SACRAMENTO CO. STREAMS, CA	FDR/ENV/REC	03/ /98	64,770,000
SPK	YUBA RIVER BASIN, CA	FDR	04/01/98	26,010,000
SPN	UPPER GUADALUPE, CA	FDR/REC	03/ /98	134,983,000
SPN	OAKLAND HARBOR, 203, CA	NAV-DD	05/04/98**	253,860,000
SWF	GRAHAM, TX	FDR/ENV/REC	04/15/98	9,538,000

Section 902 MODIFICATIONS

<u>DIST</u>	<u>PROJECT</u>	<u>PROJECT PURPOSE</u>	<u>FINAL REPORT</u>	<u>HQUSACE APPROVAL</u>	<u>TOTAL COST \$</u>
NAB	WASHINGTON, DC	FDR	02/98		5,970,000
NAN	NEW YORK HARBOR AND ADJACENT CHANNELS, PORT JERSEY, NJ	NAV-DD	03/ /98		100,689,000
NAN	ARTHUR KILL CHANNEL, HOWLAND HOOK MARINE TERMINAL, NY & NJ	NAV-DD	04/30/98		304,423,000
NWO	WOOD RIVER, NE	FDR	08/97		16,632,000
SPK	GLENN/COLOUSA RIVERBED GRADIENT FACILITY, CA	FDR	01/98	03/31/98	23,800,000

FLOOD HAZARD MITIGATION PROGRAM AND RIVERINE ECOSYSTEM RESTORATION PROGRAM

The purpose of this legislation is to be more responsive and comprehensive in addressing the broad range of issues concerning the wise use of water and related land resources. The development of high hazard floodplains, alteration of hydrologic regimes, and disturbance of riverine ecosystems has had adverse consequences for the Nation's economic and environmental health. Each year billions of dollars, both public and private, are expended

on costly repair and reconstruction of floodplain property and associated infrastructure following flood events. Development in upstream areas has altered hydrology, aggravated flooding, and contributed to the loss of important riverine, wetland, and floodplain environmental values.

The problems facing our Nation's floodplain areas are the result of a wide variety of hydrologic, economic, and social factors, and are influenced by public policy and public expenditures. Failure to appreciate and incorporate economic, hydrologic and environmental considerations into local and regional growth policies has

** The feasibility study is being conducted at 100 percent non-Federal cost by the sponsor under the authority of Section 203, WRDA 86.

“Scheduled” – listed in bold type.

Project Purposes: FDR = Flood Damage Reduction; NAV-DD = Navigation, Deep Draft; ENV = Ecosystem Restoration; HYD = Hydropower; SP = Shore Protection; REC = Recreation; NMit = Navigation Mitigation (section 111); WS = Water Supply

led to unwise uses of high hazard floodplains and the loss of floodplain resources such as wetlands. Storm water management in upstream areas often has not been sufficiently comprehensive to avoid aggravating downstream flood problems and environmental degradation. In addition, while many Federal programs address these problems, they neither fully integrate Federal assistance nor always complement non-Federal activities. Consequently, opportunities to prevent or reduce flood damages, to restore riverine ecosystem values and the wise use of floodplains, and to conserve remaining hydrologic and ecological resources in developing areas are not fully utilized.

This legislative initiative provides authority for the Army Corps of Engineers to work with other Federal agencies to more efficiently and effectively help local governments both reduce flood damages and conserve, restore, and manage riverine and related land resources. It brings the Corps water resources expertise to bear on the full range of problems and opportunities to restore the natural functions and values of our Nation's rivers and floodplains. By pursuing these objectives on a programmatic basis, rather than in a reactive project-by-project mode, the Corps disciplined problem solving planning process can be applied in a deliberate and timely manner to develop comprehensive solutions for high hazard flood prone areas.

Program emphasis is to be placed on non-structural flood damage reduction measures and on riverine and wetland ecosystem restoration measures that conserve, restore, and manage hydrologic and hydraulic regimes and restore the natural functions and values of the floodplain. Related benefits include prevention of future flood damages and Federal flood disaster assistance costs, reduced risks and exposure to flooding, reduced community displacement due to flooding, improved water quality, improved habitat along streams, additional open space, and overall improved community well being. Modifying the use of upstream areas to reduce storm water runoff is a key element in reducing future flood damages and achieving revitalization of our riverine resources. Appropriate land uses in floodplain areas reduce the risk of unwarranted economic loss and facilitate restoration of values and functions of highly productive ecological areas. Traditional water and land resource management measures, such as removal of structures from frequently flooded areas, upstream storm water collection, stream restoration, and sediment retention, are essential elements

in the restoration of natural ecosystems and in improving the natural and aesthetic amenities of floodplains.

In the execution of this program, the Secretary is expected to ensure that each comprehensive planning initiative emphasizes non-structural flood hazard reduction measures and is undertaken in collaboration with the respective Federal, State, and local agencies that have complementary programs and interests. In addition, the Secretary is to ensure that such projects are fully coordinated with other Federal, State, and local resource agencies, and to invite all agencies, groups, and the public to participate in the planning of such projects.

The Secretary may implement such projects after making a determination that the projects will significantly reduce potential flood damages, will improve the quality of the environment, and are justified based on the monetary (National Economic Development) and non-monetary environmental benefits that the project provides. Federal and non-Federal cost sharing for all studies and projects undertaken pursuant to this authority will be in accordance with current laws and regulations. No more than \$75,000,000 in Army Civil Works appropriations may be expended on any single project undertaken under this authority. All studies and projects undertaken under this authority from Army Civil Works appropriations shall be fully funded within the program funding levels provided in this subsection. Total Army Civil Works appropriations authorized under this section are \$325,000,000, to be expended over a total of 6 years.

The program established under this authority will be subject to an independent review, the purpose of which will be to evaluate the efficiency of the program in achieving the dual goals of flood hazard mitigation and ecosystem restoration. The Secretary will be required to transmit a report on the findings of the review to the Congress by April 2004, together with any recommendations for continuing the program.

SHORE PROTECTION

This section creates a new cost sharing formula for the periodic nourishment of shore protection projects. The

non-Federal share will be 65 percent of the cost of the periodic nourishment except that the cost of the periodic nourishment of privately owned shores will be borne by non-Federal interests, and the cost of periodic nourishment of Federally owned shores will be borne by the Federal Government. The provision maintains the Federal and non-Federal cost sharing provisions of the Water Resources Development Act of 1986 for the initial construction of shore protection projects.

This proposal will provide for the orderly continuation of the Federal and non-Federal partnerships on shore protection projects by providing affordable projects in the context of a balanced Federal budget. The majority of hurricane and storm damage reduction projects are built in coastal areas. These coastal projects most often involve the periodic nourishment of beach areas over a 50-year project life. Besides reducing hurricane and storm damages, which is essential to preserving the viability of coastal areas, many of these projects are also essential to the economic viability of State, regional, and local recreation and tourism activities. To reflect the long-term non-Federal benefits that accrue to such shoreline protection projects, the provision amends Section 103(d) of the Water Resources Development Act of 1986 to increase the non-Federal contribution associated with the periodic nourishment of such projects.

INCREASE IN COST LIMITATION FOR SMALL FLOOD CONTROL PROJECTS

The Army Corps of Engineers small flood control project continuing authority program is a popular program that provides a means for quick implementation for flood damage reduction studies and projects. During FY 1997, there were nine projects initiated under this program, and there is a demand for more. The Federal project limits for section 205 were last increased in the Water Resources Development Act of 1986. This proposed increase in the Federal share of project cost from \$5,000,000 to \$7,000,000 will offset the rise in costs due to inflation during that period. Additionally, the provision encourages consideration of non-structural flood control measures in implementing projects under the authority.

USE OF NON-FEDERAL FUNDS FOR COMPILING AND DISSEMINATING INFORMATION ON FLOODS AND FLOOD DAMAGES

This proposal allows the Secretary to accept and expend certain funds provided by States and local governments to compile and disseminate information on floods and flood damages. The Water Resources Development Act of 1990 prohibited the collection of fees from such entities; nevertheless, the demand for information on floods and flood damages continues to increase. Moreover, there have been a number of instances where States and local governments have offered to contribute funds to expand the services provided pursuant to this authority, but the Corps has been unable to accept such contributions because of the statutory prohibition on collecting fees for such services. This provision will allow the Corps to accept voluntary contributions from State and local governments. By clarifying that this statutory prohibition does not apply to funds voluntarily contributed, the Corps will be able to disseminate information on flooding and flood damages to a wider segment of the public.

EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION

This provision would extend the authorization of appropriations for critical restoration projects in South Florida through FY 2000. This is necessary because funds were not available to begin work on this project in FY 1997 as anticipated.

AQUATIC ECOSYSTEM RESTORATION

This proposal will allow non-profit entities to participate as non-Federal project sponsors in aquatic ecosystem restoration and protection projects carried out under the authority of Section 206 of the Water Resources Development Act of 1996, thereby expanding the universe for potential project sponsors beyond those which meet the definition of "non-Federal interest" as set forth in Section 221 of the Flood Control Act of 1970.

BENEFICIAL USES OF DREDGED MATERIAL

This proposal will allow non-profit entities to participate as non-Federal project sponsors in beneficial uses of dredged material projects carried out under the authority of Section 204 of the Water Resources Development Act of 1992, thereby expanding the universe for potential project sponsors beyond those which meet the definition of "non-Federal interest" as set forth in Section 221 of the Flood Control Act of 1970.

COOPERATIVE AGREEMENTS FOR NATURAL RESOURCES, ENVIRONMENTAL PROTECTION, CONSERVATION, AND RECREATION MEASURES

This proposal provides authority for the Secretary to enter into cooperative agreements with non-Federal public bodies and non-profit entities for the purpose of facilitating collaborative efforts involving environmental protection and restoration, natural resources, conservation, and recreation in connection with the development, operation, and management of water resources projects under the jurisdiction of the Department of the Army.

Other Federal agencies, including other Department of Defense agencies and the Departments of Interior and Agriculture, have established cooperative agreements with organizations such as the Student Conservation Association to assist in the management of public lands and military installations. This legislation provides specific authority for the Corps to enter into similar arrangements in support of the Civil Works Program.

CONTRIBUTIONS BY STATES AND POLITICAL SUBDIVISIONS

Under current law, the Secretary is authorized to receive funds from States and political subdivisions thereof to be expended in connection with funds appropriated by the

United States for any authorized flood control work. This proposal expands that authority to allow the Secretary to receive such funds from States and political subdivisions to be expended in connection with funds appropriated by the United States for any authorized environmental restoration project.

RECREATION USER FEES

Currently, all recreation user fee revenues collected at water resources development projects under the jurisdiction of the Department of the Army must be deposited into a special account in the Treasury and are made available to the Corps only after Congress provides an appropriation in subsequent fiscal years. Although the Corps has authority to collect recreation user fees and is encouraged to do so to maximize revenues, the cost of collecting those revenues is provided for with funds that could be used for other recreation activities. This reduces the funds available for those activities. It also reduces the incentive for project managers to pursue expanded fee collection aggressively, since the cost of that collection is not reimbursed.

This legislative proposal would allow the Corps to retain and expend, without further appropriation, 100 percent of recreation user fee revenues above the base line of \$34,000,000 for each fiscal year during FY 1999 through 2002. The revenues retained by the Corps would be available through FY 2005 for specific purposes, including repair and maintenance work and habitat for facility enhancement. Eighty percent of the total amount withheld would be available for expenditure at the specific site from which the funds were collected, and twenty percent would be available for use on an agency-wide basis.

SHORELINE MANAGEMENT PROGRAM FEES

This proposal directs the Secretary to review the Shoreline Management Program administered by the Department of the Army within 12 months after the date of enactment of this act and every 5 years thereafter to

determine if the existing fee schedule produces enough revenue to cover the costs of administering the Program. Currently, the cost of administering the Program greatly exceeds the revenues generated by the current fee schedule. This section provides authority for the Secretary to periodically increase the level of charges in the fee schedule in the event that the amounts collected do not cover such costs.

WATER RESOURCES DEVELOPMENT STUDIES FOR THE PACIFIC REGION

The purpose of this legislation is to expand those types of studies that can be undertaken in the Pacific Region that includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. This is an expansion of the study authority that was provided in Section 444 of the Water Resources Development Act of 1996 and will allow the Secretary to conduct studies in that region that cover the full panoply of water resources issues.

WATER RESOURCES FOUNDATION

This proposal establishes a Water Resources Foundation, a non-profit corporation designed to provide private sector support for the Army Corps of Engineers Natural Resources Management Program. The primary purposes of the Foundation will be to further resource conservation at Corps lakes; to promote a public stewardship ethic; and to enhance the provision of visitor services at Corps lakes. The Foundation would serve as a private adjunct to the Corps in providing recreation opportunities and in managing natural resources at Corps projects. It would also serve as a "force multiplier" for the Corps Natural Resource Management Program by conducting activities for which the Corps has either no authority or inadequate resources to carry out these activities, within the construct of a public/private partnership. The Departments of the Interior and Agriculture have similar foundations that provide similar support to their agencies. This legislation would authorize an appropriation of \$300,000 during each of FY 1999, 2000, and 2001, which would be used to set up and initiate the work of the Foundation. After this initial Federal expenditure, the Foundation would be self-supporting.

REGULATORY PROGRAM FUNDING

This section provides authority for the Secretary to establish and collect fees for the evaluation of commercial permit applications; to recover costs associated with the preparation of Environmental Impact Statements required by the National Environmental Policy Act of 1969; and to recover costs associated with wetlands delineations for major developments affecting the waters of the United States, including wetlands. The fees established pursuant to this section will be collected only from commercial permit applicants and for major development; the fees currently collected from small landowners, small businesses, or small farm operations will be eliminated.

The fees collected pursuant to this section would be deposited into a special account established in the Treasury of the United States and would be available to the Secretary, subject to appropriations, to apply to the costs incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

FLOOD MITIGATION NEAR PIERRE, SOUTH DAKOTA

This provision provides the Secretary of the Army with the authority to acquire lands and property from willing sellers in the vicinity of Pierre, South Dakota, or to floodproof or relocate such properties within the local community that the Secretary determines are adversely affected by the full wintertime release from the Oahe Powerplant. The Secretary must provide a report to Congress outlining the implementation plan for such nonstructural measures to mitigate the flooding problems. The Federal cost limit for all activities carried out under this section is \$25,000,000. The report is to be provided to the Congress within one year after funds are provided for such studies. Both the implementation plan and report are to be coordinated with the Federal Emergency Management Agency, other Federal agencies, and State and local officials and residents. Lands acquired under this section are to remain in public use and be developed in a manner that minimizes further flood damages. Such acquired lands are to be dedicated and maintained for

uses that are compatible with any remaining flood threat; this includes such things as recreation, open space, and environmental restoration, protection, and enhancement. No structures are to be erected on such lands other than a public facility that is related to the designated floodplain use, and those that are built must be constructed so as to minimize future flood damages.

LOWER MISSOURI RIVER AQUATIC RESTORATION PROJECTS

The purpose of this legislation is to recognize and build on the existing efforts to restore and protect the Missouri River ecosystem between Gavins Point Dam and the Missouri River's confluence with the Mississippi River. Specifically, this proposal recognizes the efforts of navigation, agriculture, and environmental communities in developing a consensus and balanced approach to ecosystem restoration in this reach of the Missouri River.

The report required under this provision, to the maximum extent practicable, should be based on information from previous studies and collaborative processes; should identify, prioritize, and prepare a general implementation strategy and overall plan for aquatic environmental restoration and protection; and should identify a series of individual environmental restoration projects that should be accomplished under Section 206 of the Water Resources Development Act of 1996. In preparing the report, the Secretary will review the Missouri River Fish and Wildlife Mitigation Project and the Missouri River Basin Association Planning Recommendations and will take into account information from past and on going studies and efforts, including the Missouri River Master Water Control Manual Review and Update Study and the Missouri River Collaborative Process. The Corps of Engineers will provide advance notice of meetings, provide for an adequate opportunity for public input and comment, maintain appropriate records, and maintain a record of the proceedings from all public meetings. This study will be coordinated with relevant Federal agencies, including the Environmental Protection Agency and the U.S. Fish and Wildlife Service.

In developing the general implementation strategy and plan for environmental restoration and protection, the Secretary will be required to establish criteria for prioritizing and sequencing activities based on cost-effectiveness and likelihood of success. Preliminary

Restoration Plans will be prepared for priority projects and forwarded to the Secretary for final review and approval for implementation under section 206.

PAYMENT OPTION, MOOREFIELD, WEST VIRGINIA

In Section 358 of the Water Resources Development Act of 1996 [110 Stat. 3726], Congress directed the Secretary, as part of the implementation of the Moorefield, West Virginia, flood control project, to conduct a review to determine whether land acquisition activities of the Army Corps of Engineers before May 1, 1996, contributed to any flood damages in the town of Moorefield during 1996. The Secretary subsequently completed the review mandated by the Congress and determined that land acquisition activities of the Corps before May 1, 1996, for the Moorefield, West Virginia, flood control project did not contribute to flood damages in the town. Notwithstanding this determination by the Secretary, the committee has concluded that the town of Moorefield has suffered an economic hardship as a result of flooding in 1996. Accordingly, this provision authorizes the Secretary to permit the non-Federal sponsor for the Moorefield, West Virginia, flood control project to pay, without interest, the remaining non-Federal cost of the project over a period to be determined by the Secretary, but not to exceed 30 years.